

IAP7 Rec'd PCT/PTO 30 MAY 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Dettmers et al.
FOR : VALVE FOR HYDRAULIC PROPS OF
SHIELD-TYPE SUPPORT FRAMES,
AND SHIELD-TYPE SUPPORT FRAME
SERIAL NO. : 10/551,932
FILED : October 4, 2005
EXAMINER : N/A
ART UNIT : Unknown
CONFIRMATION NO. : Unknown
ATTORNEY DOCKET NO. : SHEE 200060

**SUBMISSION OF TRANSLATION OF THE
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

MAIL STOP PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for submission in the above-identified national patent application is a translation of the International Preliminary Report on Patentability.

CERTIFICATE OF MAILING OR TRANSMISSION

I certify that this Comments on Statement of Reasons for Allowance is being
☒ deposited with the United States Postal Service as First Class mail under 37 C.F.R. § 1.8, addressed to: MAIL
STOP PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

| | |
|-----------------------------|--|
| Express Mail Label No.: | Signature <i>Mary Ann Temesvari</i> |
| Date <i>May 26, 2006</i> | Printed Name Mary Ann Temesvari |

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

May 26, 2006
Date


Mark E. Bandy, Reg. No. 35,788
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From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

To:

ALTHAUS, Arndt
Buschhoff, Hennicke, Althaus
Postfach 19 04 08
50501 Köln
ALLEMAGNE

| | |
|--|--|
| Date of mailing (day/month/year) 27 April 2006 (27.04.2006) | |
| Applicant's or agent's file reference Gw 0310/7PCT | IMPORTANT NOTIFICATION |
| International application No. PCT/EP2004/004766 | International filing date (day/month/year) 05 May 2004 (05.05.2004) |
| Applicant DBT GMBH et al | |

| | |
|---|-----|
| PATERIANWALTE BUSCHHOFF - HENNICKE - ALTHAUS | |
| Eingeg. | Not |
| - 4. Mai 2006 | |
| Frist: | |

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

| | |
|---|--|
| The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland | Authorized officer Agnes Wittmann-Regis |
| Facsimile No. +41 22 740 14 35 | Facsimile No. +41 22 338 89 70 |

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

| | | |
|--|---|---|
| Applicant's or agent's file reference Gw 0310/7PCT | FOR FURTHER ACTION | See item 4 below |
| International application No. PCT/EP2004/004766 | International filing date (<i>day/month/year</i>) 05 May 2004 (05.05.2004) | Priority date (<i>day/month/year</i>) 08 May 2003 (08.05.2003) |
| International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237 | | |
| Applicant DBT GMBH | | |

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

| | |
|---|---|
| The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland | Date of issuance of this report 18 April 2006 (18.04.2006) |
| Facsimile No. +41 22 740 14 35 | Authorized officer <div style="text-align: center; font-weight: bold; margin-top: 10px;">Agnes Wittmann-Regis</div> Telephone No. +41 22 338 89 70 |

PATENT COOPERATION TREATY

Translation

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

Applicant's or agent's file reference

Gw 0310/7PCT

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/004766

International filing date (day/month/year)

05.05.2004

Priority date (day/month/year)

08.05.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

DBT GMBH

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004766

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004766

Box No. II Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2004/004766

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | | |
|-------------------------------|--------|--------------------------|-----|
| Novelty (N) | Claims | 4 5 10 11 12 13 14-27 28 | YES |
| | Claims | 1 2 3 6 7 8 9 | NO |
| Inventive step (IS) | Claims | | YES |
| | Claims | 1-28 | NO |
| Industrial applicability (IA) | Claims | 1-28 | YES |
| | Claims | | NO |

2. Citations and explanations:

- 1 This report makes reference to the following documents:
D1: EP 0 930 130 A (STA CO METTALLERZEUGNISSE GMBH) 21 July 1999 (1999-07-21)
D2: DE 203 01 251 U (FESTO AG & CO) 3 April 2003 (2003-04-03)
D3: DE 35 04 553 C (HEMSCHIEDT MASCHF HERMANN) 10 April 1986 (1986-04-10)
D4: DE 198 13 909 A (DBT GMBH) 7 October 1999 (1999-10-07)
D5: US-A-3 673 800 (ASHTON PHILIP E) 4 July 1972 (1972-07-04)
D6: DE 196 33 258 C (IVERSEN HYDRAULICS APS) 28 August 1997 (1997-08-28)
- 2 INDEPENDENT CLAIM 1
- 2.1 The present application fails to comply with the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2). Document D1 discloses (cf. figure 8; the references between parentheses apply to D1):

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004766

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

valve (II) comprising a valve housing, a switchable valve insert (16) that is accommodated therein, connections for a high-pressure conduit that is connected to the annular space of the hydraulic cylinder, and a connection for an additional unit (end position damping 15), the valve housing being fixable on the hydraulic cylinder (1), and the connections on the valve housing, in its fixed position on the hydraulic cylinder, extending parallel to the axis of the hydraulic cylinder.

2.2 Claim 1 is not clear and does not meet the requirements of PCT Article 6 because the subject matter for which protection is sought is not clearly defined. The claim attempts to define the valve by means of features of a hydraulic cylinder which is not claimed. The following statements do not make it possible for a person skilled in the art to determine which technical features are necessary in order to perform the functions referred to:

2.2.1 'Connections for high-pressure conduits that are joined to the cylinder chamber and/or the annular space of the hydraulic cylinder.'

2.2.2 'The valve housing can be fixed on the hydraulic cylinder.'

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004766

| Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
|-----------|--|
| 3 | DEPENDENT CLAIMS 2-28 |
| 3.1 | Claims 2-28 contain no features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step; see documents D1 - D6 and the corresponding passages indicated in the search report. |